



August 26, 2015

Via Electronic Case Filing

Honorable Eric N. Vitaliano
United States District Judge
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Burke v. New York City Transit Authority, et al.
Docket No. 15 CV 1481 (ENV)(LB)

Dear Judge Vitaliano:

This office represents defendants New York City Transit Authority (“NYCT”) and Kristen Nolan in the above referenced action. This letter is submitted to respectfully request that NYCT’s motion to dismiss, dated June 5, 2015 (Dkt. Entry Nos. 13-18), be deemed filed on behalf of individual defendant Kristen Nolan.

On or about August 6, 2015, plaintiff served Kristen Nolan with the Summons and Amended Complaint. Similar to the original complaint, the primary assertion in the amended complaint against Ms. Nolan, an attorney for the NYCT, is that she conspired with other NYCT employees to violate plaintiff’s civil rights on April 14 and 15, 2014.

NYCT’s motion to dismiss was based on plaintiff’s failure to allege any facts to allow a court “to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). The same arguments to dismiss the amended complaint that were asserted on behalf of NYCT also apply to Ms. Nolan.

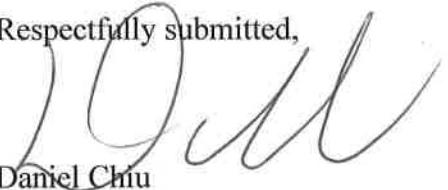
The only additional argument that would be raised for Ms. Nolan is that no individual liability exists under Title VII, the ADA, and ADEA. Henriquez-Ford v. Council of School Supervisors and Administrators, 2015 U.S. Dist. Lexis 81411, at *11 (S.D.N.Y. June 23, 2015).

Defendants are amenable to formal briefing to dismiss the amended complaint against Ms. Nolan, however, in the interests of conserving scarce judicial and party resources, it is respectfully requested that NYCT’s motion to dismiss be deemed filed on behalf of Ms. Nolan with the additional argument that individuals are not subject to suit under Title VII, the ADA, and ADEA.

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Thank you for your consideration of this request.

Respectfully submitted,



Daniel Chiu

cc: Brian Burke, *pro se* (via e-mail)
Camille Calman, Esq. (via e-mail)